

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 19, 2008

Charles R. Fulbruge III  
Clerk

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No. 07-40926  
Summary Calendar

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JULIUS WARNER MARACALIN

Petitioner-Appellant

v.

MARVIN D MORRISON, Warden

Respondent-Appellee

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:03-CV-631

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Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:\*

Julius Warner Maracalin, federal prisoner # 02617-095, appeals from the district court's denial of his motion for relief pursuant to FED. R. CIV. P. 60(b) from the denial of his petition for 28 U.S.C. § 2241 relief, a denial of relief that we affirmed. *Maracalin v. Morrison*, 185 F. App'x 430, 431 (5th Cir.), cert. denied, 127 S. Ct. 312 (2006).

The denial of Maracalin's Rule 60(b) motion was not an abuse of discretion. See *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981). We held

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

that Maracalin could not pursue relief pursuant to § 2241 on the contentions on which he sought a ruling in the Rule 60(b) motion. Maracalin, 185 F. App'x at 431. Because Maracalin cannot obtain relief in a § 2241 proceeding, the merits of his underlying contentions need not be addressed.

Maracalin's appeal is dismissed as frivolous. See 5TH CIR. R. 42.2. Maracalin is warned that any future attempts to evade the requirements for filing a successive 28 U.S.C. § 2255 motion, however styled, may result in the imposition of sanctions against him.

APPEAL DISMISSED; SANCTION WARNING ISSUED.